

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STATES OF NEW YORK, CALIFORNIA,
COLORADO, CONNECTICUT, ILLINOIS,
MAINE, MARYLAND, MINNESOTA, NEW
JERSEY, OREGON, VERMONT, and
WASHINGTON, COMMONWEALTH OF
MASSACHUSETTS, PEOPLE OF THE STATE
OF MICHIGAN, DISTRICT OF COLUMBIA,
CITY OF NEW YORK, COMMONWEALTH
OF PENNSYLVANIA, and STATES OF
NEVADA and NEW MEXICO,

Plaintiffs,

and

ASSOCIATION OF HOME APPLIANCE
MANUFACTURERS, and AIR-
CONDITIONING, HEATING &
REFRIGERATION INSTITUTE,

Plaintiff-Intervenors,

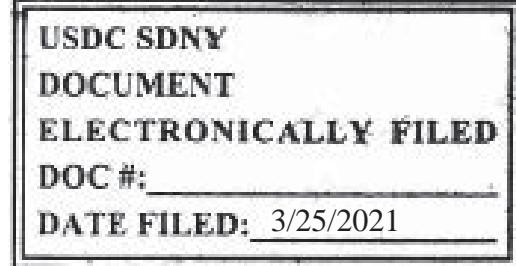
v.

JENNIFER M. GRANHOLM, as SECRETARY
OF THE UNITED STATES DEPARTMENT OF
ENERGY, and UNITED STATES
DEPARTMENT OF ENERGY,

Defendants

CIVIL ACTION No.: 20-cv-09362

**STIPULATION AND
ORDER PERMITTING
ASSOCIATION OF HOME
APPLIANCE MANUFACTURERS
and AIR-CONDITIONING,
HEATING AND
REFRIGERATION INSTITUTE
TO INTERVENE**



WHEREAS, Association of Home Appliance Manufacturers (“AHAM”) and Air-Conditioning, Heating & Refrigeration Institute (“AHRI”) (collectively “Plaintiff-Intervenors”) have filed a motion to intervene as Plaintiffs in this action; and

WHEREAS, Plaintiffs and Defendants consent to intervention by Plaintiff-Intervenors for limited purposes, as set forth herein;

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys for Plaintiffs, for Defendants, and for Plaintiff-Intervenors, as follows:

1. Plaintiffs and Defendants consent to intervention in this action by Plaintiff-Intervenors, subject to the terms stated below.
2. If the Court grants the request of Plaintiff-Intervenors to intervene based on the terms of this Stipulation and Proposed Order, the following limitations shall apply:
 - (a) Plaintiff-Intervenors shall file their Complaint in Intervention within seven (7) days after entry by the Court of an Order granting their request to intervene;
 - (b) Plaintiffs and Plaintiff-Intervenors shall not assert any cross-claim(s) against the other and shall not seek an award of attorneys' fees from the other;
 - (c) Plaintiff-Intervenors shall not seek an award of attorneys' fees from any Defendant, or any substitute Defendant;
 - (d) Plaintiff-Intervenors shall not take a position contrary to Plaintiffs' allegations in the Complaint filed on October 30, 2020, that the Department of Energy has missed statutory deadlines under the Energy Policy and Conservation Act;
 - (e) Plaintiff-Intervenors shall not oppose a motion to hold this action in abeyance for purposes of negotiation of possible settlement of this action, provided (a) the motion does not impose obligations on Plaintiff-Intervenors; and (b) the motion does not propose any timeline for any rulemaking; and
 - (f) Plaintiff-Intervenors shall not take a position on the timing of when Plaintiffs may file a motion for summary judgment (but Plaintiff-Intervenors may seek reasonable accommodations regarding their briefing of any motions).

3. Plaintiff-Intervenors shall have the right to participate fully in the briefing of, or any hearing with respect to, the potential remedy that the Court should impose.

4. Nothing in this stipulation creates a right for any Plaintiff or Plaintiff-Intervenor to participate in settlement negotiations between Defendants and any other party. If any Plaintiff and Defendant reach agreement on terms of any settlement and/or consent decree (collectively, a “Settlement”) that involves a court order, Plaintiffs shall provide to Plaintiff-Intervenors a copy of such proposed Settlement at least ten (10) days before the proposed settlement is filed with the Court or otherwise presented to the Court for approval. After that ten-day period, Plaintiffs and Defendants may seek the Court’s approval of such Settlement. Unless Plaintiff-Intervenors have consented in writing to such Settlement, Plaintiff-Intervenors may file a brief regarding the Settlement within ten (10) days after it has been filed with the Court and may participate in any hearing regarding approval or entry of the Settlement. Plaintiff-Intervenors shall treat any proposed Settlement received under this paragraph as confidential until it has been filed with the Court; provided, however, that Plaintiff-Intervenors shall be permitted to disclose the terms of the Settlement to, and discuss those terms with, Plaintiff-Intervenors’ members that may be affected by the Settlement.

5. If, after any Settlement has been entered as an order of the Court, there is any negotiated amended Settlement, Paragraph 4 above shall apply to any such amended Settlement.

6. A Court-approved Settlement or combination of Settlements that resolves all claims of Plaintiffs in this action shall also be deemed to resolve any claims of Plaintiff-Intervenors asserted in their Complaint in Intervention.

7. By entering into this Stipulation, no party waives any defense they may have, including any argument as to any other party’s constitutional, statutory, or prudential standing.

Dated: New York, New York
March 16, 2021

SO STIPULATED:

FOR PLAINTIFF STATE OF NEW YORK

LETITIA JAMES
Attorney General

/s/ Lisa S. Kwong (with permission)
LISA S. KWONG (LK3183)
TIMOTHY HOFFMAN (TH1955)
Assistant Attorneys General
New York State Department of Law
The Capitol
Albany, New York 12224
Tel: 518-776-2422
Email: Lisa.Kwong@ag.ny.gov
Email: Timothy.Hoffman@ag.ny.gov

FOR PLAINTIFF STATE OF CALIFORNIA

XAVIER BECERRA
Attorney General
DAVID ZONANA
Supervising Deputy Attorney General

/s/ Somerset Perry (with permission)
SOMERSET PERRY
JAMIE JEFFERSON
ANTHONY AUSTIN
Deputy Attorneys General
Office of the Attorney General
1515 Clay Street, 20th Floor
Oakland, CA 94612
Tel: (510) 879-0852
Email: Somerset.Perry@doj.ca.gov
Email: Jamie.Jefferson@doj.ca.gov
Email: Anthony.Austin@doj.ca.gov

FOR PLAINTIFF STATE OF COLORADO

PHILIP J. WEISER
Attorney General

/s/ Eric R. Olson (with permission)
ERIC R. OLSON
Solicitor General
Office of the Attorney General
1300 Broadway, 7th Floor
Denver, CO 80203
Tel: (720) 508-6562
Email: eric.olson@coag.gov

FOR PLAINTIFF STATE OF CONNECTICUT

WILLIAM TONG
Attorney General

/s/ Robert Snook (with permission)
ROBERT SNOOK
MATTHEW I. LEVINE
Assistant Attorneys General
State of Connecticut
Office of the Attorney General
P.O. Box 120, 55 Elm Street
Hartford, CT 0614-0120
Tel: (860) 808-5250
Email: Robert.Snook@ct.gov

FOR PLAINTIFF DISTRICT OF COLUMBIA

KARL A. RACINE
Attorney General

/s/ Brian Caldwell (with permission)

BRIAN CALDWELL
Assistant Attorney General
Social Justice Section
Office of the Attorney General
for the District of Columbia
400 6th Street, N.W., 10th Floor
Washington, DC 20001
Tel: (202) 445-1952 (mobile)
Email: brian.caldwell@dc.gov

FOR PLAINTIFF STATE OF ILLINOIS

KWAME RAOUL
Attorney General

/s/ Jason E. James (with permission)

JASON E. JAMES*
Assistant Attorney General
MATTHEW J. DUNN
Chief, Environmental Enforcement/
Asbestos Litigation Div.
Office of the Attorney General
Environmental Bureau
69 W. Washington St., 18th Floor
Chicago, IL 60602
Tel: (312) 814-0660
Email: jjames@atg.state.il.us
*admission *pro hac vice* pending

FOR PLAINTIFF STATE OF MAINE

AARON M. FREY
Attorney General of Maine

/s/ Jonathan R. Bolton (with permission)

JONATHAN R. BOLTON
Assistant Attorney General
Office of the Maine Attorney General
6 State House Station
Augusta, ME 04333
Tel: (207) 626-8800
Email: jonathan.bolton@maine.gov

FOR PLAINTIFF STATE OF MARYLAND

BRIAN E. FROSH
Attorney General

/s/ Steven J. Goldstein (with permission)

STEVEN J. GOLDSTEIN
Special Assistant Attorney General
Office of the Attorney General
200 Saint Paul Place, 20th Floor
Baltimore, MD 21202
Tel: (410) 576-6414
Email: sgoldstein@oag.state.md.us

FOR PLAINTIFF COMMONWEALTH OF
MASSACHUSETTS

MAURA HEALEY
Attorney General

/s/ I. Andrew Goldberg (with permission)

I. ANDREW GOLDBERG
Assistant Attorney General
Environmental Protection Division
ASHLEY GAGNON
Assistant Attorney General
Energy and Telecommunications Division
Office of the Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108
Tel: (617) 963-2429
Email: andy.goldberg@mass.gov

FOR PLAINTIFF STATE OF MICHIGAN

DANA NESSEL
Attorney General

*/s/ Elizabeth R. Husa Briggs (with
permission)*

ELIZABETH R. HUSA BRIGGS
Assistant Attorney General
Health, Education & Family Services
Division
Michigan Department of Attorney General
P.O. Box 30758
Lansing, MI 48909
Tel: (517) 335-7603
Fax: (517) 335-1152
Email: BriggsE1@michigan.gov

FOR PLAINTIFF STATE OF
MINNESOTA

KEITH ELLISON
Attorney General

/s/ Leigh Currie (with permission)

LEIGH CURRIE*
Special Assistant Attorney General
Minnesota Attorney General's Office
445 Minnesota Street, Suite 900
St. Paul, MN 55101
Tel: (651) 757-1291
Email: leigh.currie@ag.state.mn.us
*admitted *pro hac vice*

FOR PLAINTIFF COMMONWEALTH OF
PENNSYLVANIA

JOSH SHAPIRO
Attorney General

/s/ Aimee D. Thomson (with permission)

AIMEE D. THOMSON
Deputy Attorney General
Ann Johnston
Senior Deputy Attorney General
Impact Litigation Section
Pennsylvania Office of Attorney General
1600 Arch Street, Suite 300
Philadelphia, PA 19103
Tel: (267) 374-2787
Email: athomson@attorneygeneral.gov
ajohnston@attorneygeneral.gov

FOR PLAINTIFF STATE OF NEVADA

AARON D. FORD
Attorney General

/s/ Heidi Parry Stern (with permission)

HEIDI PARRY STERN
Solicitor General
Office of the Nevada Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101
Tel: (702) 486-3594
Email: HStern@ag.nv.gov

FOR PLAINTIFF STATE OF NEW JERSEY

GURBIR S. GREWAL
Attorney General

/s/ Gwen Farley (with permission)

GWEN FARLEY
Deputy Attorney General
25 Market Street, P.O. Box 093
Trenton, NJ 08625-0093
Tel: (609) 376-2761
Email: gwen.farley@law.njoag.gov

FOR PLAINTIFF STATE OF NEW MEXICO

HECTOR BALDERAS
Attorney General

/s/ William Grantham (with permission)

WILLIAM GRANTHAM
Assistant Attorney General
201 Third Street NW, Suite 300
Albuquerque, New Mexico 87102
Tel: (505) 717-3520
Email: wgrantham@nmag.gov

FOR PLAINTIFF STATE OF OREGON

ELLEN F. ROSENBLUM
Attorney General

/s/ Paul A. Garrahan (with permission)

PAUL A. GARRAHAN
Attorney-in-Charge
Steve Novick
Special Assistant Attorney General
Natural Resources Section
Oregon Department of Justice
1162 Court Street NE
Salem, OR 97301
Tel: (503) 947-4593
Email: Paul.Garrahan@doj.state.or.us
Email: Steve.Novick@doj.state.or.us

FOR PLAINTIFF STATE OF VERMONT

THOMAS J. DONOVAN, JR.
Attorney General

/s/ Benjamin D. Battles (with permission)

BENJAMIN D. BATTLES
Solicitor General
Office of the Attorney General of Vermont
109 State Street
Montpelier, VT 05609
Tel: (802) 828-5944
Email: Benjamin.battles@vermont.gov

FOR PLAINTIFF STATE OF
WASHINGTON

ROBERT W. FERGUSON
Attorney General

/s/ Stephen Scheele (with permission)
STEPHEN SCHEELE
Assistant Attorney General
Washington State Office of Attorney
General
P.O. Box 40109
Olympia, WA 98504
Tel: (360) 586-4900
Email: Steve.Scheele@atg.wa.gov

FOR PLAINTIFF-INTERVENORS

/s/ Kevin N. Ainsworth
Kevin N. Ainsworth
Evelyn A. French
(admission *pro hac vice* forthcoming)
Chrysler Center – 666 Third Avenue
New York, New York 10017
Telephone: (212) 692-6745
Email: kainsworth@mintz.com

FOR PLAINTIFF CITY OF NEW YORK

JAMES E. JOHNSON
Corporation Counsel

/s/ Hilary Meltzer (with permission)
HILARY MELTZER
Chief, Environmental Law Division
SHIVA PRAKASH
Assistant Corporation Counsel
New York City Law Department
100 Church Street
New York, NY 10007
Tel: (212) 356-2070
Email: hmeltzer@law.nyc.gov

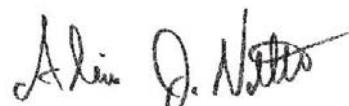
FOR DEFENDANTS

AUDREY STRAUSS
United States Attorney

By: s/ Talia Kraemer (with permission)
TALIA KRAEMER
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2822
Facsimile: (212) 637-2702
Email: talia.kraemer@usdoj.gov

SO ORDERED:

March 23 _____, 2021



ALISON J. NATHAN
United States District Judge